

APPEAL NO. 031732
FILED AUGUST 19, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 5, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fourth quarter. The claimant appeals, essentially arguing that the hearing officer's determinations that she had some ability to work and that she is not entitled to fourth quarter SIBs are against the great weight of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that she reached maximum medical improvement on January 30, 2001, with an impairment rating of 26%; that she did not elect to commute any portion of her impairment income benefits; that the fourth quarter of SIBs ran from March 8 to May 5, 2003; and that the qualifying period for the fourth quarter of SIBs was from November 24, 2002, to February 22, 2003. At issue in this case is whether the claimant satisfied the good faith requirement for SIBs entitlement by establishing that she had no ability to work during the qualifying period corresponding to the fourth quarter pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). In an unappealed finding, the hearing officer determined that the claimant satisfied the requirement of providing a narrative report from a doctor that specifically explains how the injury caused a total inability to work during the qualifying period. However, the hearing officer determined that the claimant failed to meet her burden of proof under Rule 130.102(d)(4) in that other records showed that the claimant had some ability to work in the qualifying period for the fourth quarter. That issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer was acting within his province as the fact finder in determining that the surveillance compact disc and the reports from Dr. O constituted other records that showed the claimant had some ability to work in the relevant qualifying period. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination, or the determination that the claimant is not entitled to SIBs for the fourth quarter, on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Although another fact finder may have drawn different inferences from the evidence, which would have supported a different result, that fact does not provide a basis for us to disturb the hearing officer's decision on appeal. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge